


EXHIBIT 1

Basil P. Fthenakis, Esq. (88399)
 CRITERION LAW
 2225 E. Bayshore Road, Suite 200
 Palo Alto, California 94303
 Tel. (650) 352-8400
 Fax. (650) 352-8408

FILED
SAN MATEO COUNTY

FEB 26 2016

Clerk of the Superior Court

By  CLERK

Of counsel:

David S. Godkin (admitted *pro hac vice*)
 Andrew A. Caffrey, III (admitted *pro hac vice*)
 BIRNBAUM & GODKIN, LLP
 280 Summer Street
 Boston, MA 02210
 (617) 307-6100
 godkin@birnbaumgodkin.com
 caffrey@birnbaumgodkin.com

Attorneys for Plaintiff,
 SIX4THREE, LLC, a Delaware
 limited liability company

SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN MATEO

SIX4THREE, LLC, a Delaware limited
 liability company,

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation
 and DOES 1 through 50, inclusive

Defendants.

Case No. CIV 533328

SECOND AMENDED COMPLAINT OF
 PLAINTIFF, SIX4THREE, LLC, FOR
 INJUNCTION AND DAMAGES FOR:

1. VIOLATION OF CALIFORNIA
 BUSINESS AND PROFESSIONS CODE
 §§ 17200 ET SEQ.;
2. PROMISSORY ESTOPPEL;
3. NEGLIGENT MISREPRESENTATION;
4. INTENTIONAL INTERFERENCE
 WITH CONTRACT; AND
5. INTENTIONAL INTERFERENCE
 WITH PROSPECTIVE BUSINESS
 RELATIONS.

BY FAX

Plaintiff, Six4Three, LLC, alleges as follows:

1. This matter concerns Defendant Facebook, Inc.'s campaign of promises,
 enticements, and representations to third-party software developers ("Developers") such as

3/16
 CME
 Dal

1 Plaintiff Six4Three, LLC ("643"), to develop applications for Facebook, based on Facebook's
 2 representations that Developers would have a level playing field, fair competition, and an
 3 opportunity to grow their business. Facebook's campaign was part of a calculated strategy to
 4 drive Facebook's own growth by leveraging the hard work of Developers. But once Facebook
 5 decided it would prefer to no longer compete with Developers, it abruptly reversed course, and
 6 broke its promise of fair competition in Facebook's platform. Facebook's conduct here is a classic
 7 "bait and switch" tactic that is barred by California law, as detailed below.

8 PARTIES

9 2. Plaintiff 643 is a Delaware Limited Liability Corporation with a principal place of
 10 business at 535 Mission Street, 14th Floor, San Francisco, California.

11 3. On information and belief, Defendant Facebook, Inc., is a Delaware Corporation
 12 with a principal place of business of One Hacker Way, Menlo Park, California.

13 4. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein
 14 as Does 1 through 50, inclusive, and each of them, and therefore sues said Defendants by such
 15 fictitious names. Plaintiff will amend this complaint when the true names and capacities of said
 16 Defendants have been ascertained. Plaintiff is informed and believes and thereon alleges, that
 17 Defendants Does 1 through 50, inclusive, and each of them, are legally responsible in some
 18 manner for the events and happenings referred to herein and proximately caused or contributed to
 19 the injuries to Plaintiff as hereinafter alleged. Wherever in this complaint any Defendant is the
 20 subject of any charging allegation by Plaintiff, it shall be deemed that said Defendants Does 1
 21 through 50, inclusive, and each of them, are likewise the subjects of said charging allegation.

22 5. Plaintiff is informed and believes, and thereon alleges, that at all times herein
 23 mentioned, each of the Defendants was the agent and employee of each of the remaining
 24 Defendants and, in doing the things herein alleged, was acting within the course and scope of said
 25 agency and employment.

26 FACTS

27 6. 643 is an image pattern recognition startup company.
 28

7. Facebook operates a social networking service that enables users to connect and share information with their friends and family.

8. Facebook refers to the network of relationships between its users as the “Graph” or the “Social Graph.”

9. The Facebook Developer Platform (also called “Facebook Platform”) enables Developers to make their applications and other services available to Facebook users.

I. LAUNCH OF FACEBOOK PLATFORM IN 2007

10. At 3PM PDT on May 24, 2007, Mark Zuckerberg, Facebook Founder and CEO, made a self-described revolutionary announcement to a crowded room of software developers in San Francisco. Zuckerberg announced the launch of Facebook Platform, which he had described weeks earlier in an interview with Fortune magazine as “the most powerful distribution mechanism that’s been created in a generation.”¹ He went on in the Fortune interview to describe the motivation for creating Facebook Platform in this way: “We want to make Facebook into something of an operating system so you can run full applications,” specifying that this development was the internet-equivalent to what Microsoft did with Windows, which allowed other developers to build applications for PCs. (See <http://archive.fortune.com/2007/05/24/technology/facebook.fortune/index.htm>.)

11. In fact, Zuckerberg’s first demonstration of Facebook Platform was purportedly to Bill Gates in early May 2007. Microsoft and Facebook had reached an agreement for Microsoft to purchase banner ads on Facebook in which Microsoft had guaranteed Facebook a minimum of \$100 million per year through 2011. Facebook Platform was positioned by Facebook to Microsoft as the driving force behind meeting Facebook’s ambitious growth metrics. At the time of this announcement, Facebook had just exceeded 20 million active users and had raised only \$37.7 million in venture capital investment. Even at this modest point in Facebook’s growth, its photo sharing application was the largest photo application on the Internet, and according to Facebook’s

¹ In the quoted text here and elsewhere in the Second Amended Complaint, representations by Facebook or its employees have been underlined for emphasis.

own internal statistics, drew more than twice the traffic of the next three photo sites combined at the time of the May 24, 2007 announcement of Facebook Platform.

12. Zuckerberg announced that the three key elements of Facebook Platform were “deep integration, mass distribution, and new opportunity.” These were three key themes he would repeat throughout the day and for years to come in numerous public conversations and presentations. (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

13. Thus, Zuckerberg made three distinct promises: (1) promise of deep integration with Facebook’s social graph; (2) promise of Facebook’s support in achieving mass distribution of developer applications; and (3) promise of an opportunity to build a business on Facebook.

14. By 8PM that evening, these key elements were memorialized on Facebook’s website with the official announcement “Facebook Platform Launches”, stating “You can now build applications that have the same access to integration into the social graph as Facebook applications, such as photos, notes, and events.... The power of mass distribution is now in your hands. You can gain distribution for your applications through the social graph like never before. Applications can be virally engineered to reach millions of Facebook users quickly and efficiently through the profile, news feed, and mini-feed.... With access to deep integration into the site, and mass distribution through the social graph comes a new opportunity for you to build a business with your application. You are free to monetize your canvas pages through advertising or other transactions that you control.” (See Facebook Platform Launches, <http://web.archive.org/web/20070706002021/http://developers.facebook.com/news.php?blog=1&story=21>).

15. Facebook’s announcement thus promised that (1) developers have “same access to integration” for applications such as photos and notes as Facebook employees; (2) developers are able to distribute applications through Facebook Platform; and (3) developers are able to monetize applications through Facebook Platform.

16. Zuckerberg went on to say: “The social graph is our base, and we’ve built a framework that is completely optimized for developing social applications within our environment.... We believe that there is more value for everyone in letting other people develop

1 applications on top of the base we've built than we could ever possibly provide on our own....
2 This is good for us because if developers build great applications then they're providing a service
3 to our users and strengthening the social graph.... This is a big opportunity. We provide the
4 integration and distribution and developers provide the applications. We help users share more
5 information and together we benefit."

6 17. Zuckerberg thus promised that Facebook is committed long term to serving as a
7 platform that lets developers build applications on a level playing field because it is a big
8 opportunity for everyone.

9 18. Zuckerberg then announced that Facebook had been working with over 70
10 developers in anticipation of the launch of Facebook Platform, including Amazon, Forbes, iLike,
11 Lending Club, Microsoft, Obama for America, Photobucket, Red Bull, Twitter, Uber, Virgin
12 Mobile USA, Warner Bros, Washington Post, and many others. (See live blog of F8 event from
13 leading Internet blogger, Mashable, at [http://mashable.com/2007/05/24/facebook-f8-](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0)
14 [live/#CIfbgFfPV5q0](http://mashable.com/2007/05/24/facebook-f8-live/#CIfbgFfPV5q0).)

15 19. Around 4PM during Zuckerberg's presentation, he announced 5 case studies from
16 these early developer partners aimed at showing how easy it was for all developers to integrate
17 with Facebook Platform. Zuckerberg distributed case studies from Red Bull, Box.net, Lending
18 Club, Microsoft and Slide.com. Zuckerberg continued to emphasize during this public, annual
19 keynote to Developers that Facebook Platform is the single biggest and most revolutionary
20 change to Facebook since its inception, stating: "Every once in a while a platform comes along
21 that allows people to build a completely new application—sometimes even starts new industries."
22 (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

23 20. GigaOm, a leading Internet blogger, live blogged the event and further quoted
24 Zuckerberg as saying: "With photo-sharing, he explained, 'it's not just the photos that spread, it's
25 the whole photos application'. Third-party applications won't be treated like second-class citizens
26 on Facebook, he says; users can add them to their profiles and drag them and drop them to their
27 content. Applications can use Flash, JavaScript, and Silverlight if a user approves them. Outside
28 applications can issue unlimited notifications to users, and fit into the Facebook environment by

1 accessing a 'friend selector' that spits out each users' connections. Now Zuckerberg says you can
 2 serve ads on your app pages and keep all the revenue, sell them yourselves or use a network, and
 3 process transactions within the site, keeping all the revenue without diverting users off
 4 Facebook." (See <https://gigaom.com/2007/05/24/live-at-the-facebook-launch/>.)

5 21. Zuckerberg thus promised that (1) developer applications won't be "second class
 6 citizens"; (2) developer applications can access a user's connections and related user data made
 7 available in the social graph; and (3) developer applications can sell ads through the Facebook
 8 Platform.

9 22. This grandiose language from Zuckerberg obviously sparked substantial questions
 10 from the developer community so by 4:20PM pacific (1 hour and 20 minutes after the keynote
 11 had started), Facebook had released the official "Facebook Platform FAQ", which was being
 12 circulated among bloggers to educate developers further on this announcement. (See Exhibit 1,
 13 Facebook F8 and Platform FAQ.) The Facebook Platform FAQ states, among other things:

14 **What is Facebook Platform?** Facebook Platform is a development system that enables
 15 companies and developers to build applications for the Facebook website, where all of
 16 Facebook's 24 million active users can interact with them. Facebook Platform offers deep
 17 integration in the Facebook website, distribution through the social graph and an
 18 opportunity to build a business.

19 * * *

20 **What's new in Facebook Platform?** We've been adding functionality since Facebook
 21 Platform first shipped in beta in August 2006. With the latest evolution of Facebook
 22 Platform however, third-party developers can now create applications on the Facebook
 23 site with the same level of integration as applications built by internal Facebook
 24 developers. Now developers everywhere have the ability to create Facebook applications
 25 that deeply integrate into the Facebook site, as well as the potential for mass distribution
 26 through the social graph and new business opportunities.

27 **Why did Facebook launch Facebook Platform?** Our engineers have created great
 28 applications for Facebook, but we recognized that third-party developers can help us make

1 Facebook an even more powerful social utility. Facebook Platform gives developers
2 everywhere the tools to create applications that we just wouldn't have the resources to
3 build in-house, and those applications make Facebook an even better way for our users to
4 exchange information. Developers also benefit from the Facebook Platform as it gives
5 them the potential to broadly distribute their applications and even build new business
6 opportunities.

7 **What kinds of applications can be built on Facebook Platform?** The kinds of
8 applications developers can build on Facebook Platform are limited only by their
9 imagination. Because applications are based on the Facebook social graph they can be
10 more relevant to users, keeping people in touch with what and whom they care about.

11 We've already seen a variety of applications built by our developer partners, including
12 those for sharing media files, book reviews, slideshows and more. Some of the
13 possibilities of Facebook applications are illustrated in the Facebook Platform Application
14 Directory, available at <http://facebook.com/apps>.

15 **Are there any restrictions on what developers can build?** Developers are encouraged
16 to exercise their creativity when building applications. Of course, all applications are
17 subject to the Terms of Service that every developer agrees to, which include basic
18 requirements such as not storing any sensitive user information, not creating any offensive
19 or illegal applications, and not building anything that phishes or spams users. And users
20 will always have the power to report any applications that compromise Facebook's trusted
21 environment, keeping our users' information safe.

22 * * *

23 **How will Facebook deal with applications that compete with one another or even**
24 **compete with Facebook-built applications?** We welcome developers with competing
25 applications, including developers whose applications might compete with Facebook-built
26 applications. Many applications are likely to offer similar features. We've designed
27 Facebook Platform so that applications from third-party developers are on a level playing
28 field with applications built by Facebook. Ultimately, our users will decide which

1 applications they find most useful, and it is these applications that will become the most
 2 popular.

3 * * *

4 **Can Facebook applications include ads?** We want to enable developers to build a
 5 business on their Facebook applications, so we're giving developers the freedom to
 6 monetize their applications as they like. Developers can include advertising on their
 7 applications' canvas pages, though no advertising will be allowed within the application
 8 boxes that appear within user profiles.

9 **Are you going to share revenue with developers?** While revenue sharing is not
 10 available at launch, we are looking into ways to share advertising revenue with
 11 developers. The version of Facebook Platform already lets developers monetize their
 12 applications as they like, whether they choose to offer it for free or to build a business on
 13 their application.

14 23. In sum, these representations by Facebook reflected the following promises to
 15 Developers:

- 16 a. Developers would have "deep integration";
- 17 b. Developers would have access to the "social graph";
- 18 c. Developers would have "an opportunity to build a business."
- 19 d. Developers would have the same level of integration and ability to develop apps in
- 20 the same manner as internal Facebook employees;
- 21 e. Facebook will provide adequate tools necessary for Developers to build their
- 22 applications;
- 23 f. Facebook will help Developers achieve broad distribution of their applications;
- 24 g. so long as applications abide by Terms of Service (e.g. are not offensive or
- 25 unlawful), Facebook will be neutral as to the applications built on its operating
- 26 system;

- h. any application that does not violate Terms of Service, phish or spam users, contain offensive material, or break the law shall be accepted in Facebook Platform;
- i. competing applications are welcome on Facebook's operating system;
- j. Facebook will remain neutral among competing applications;
- k. Facebook will remain neutral among its own applications and those of developers regardless of whether they compete or not;
- l. applications similar in purpose and content will be allowed to compete on a "level playing field"
- m. "level playing field" constitutes a definition of fairness in market competition, and that definition of fairness means that ultimately users will decide which applications win the market, not Facebook or other third parties;
- n. implicit in this definition of fairness based on user decision is the necessary consequence that Facebook shall take no actions to promote its own applications or preferred applications from companies that have a special relationship with Facebook in order to slant this playing field in a manner that makes it less likely for users ultimately to decide the winner;
- o. Facebook will enable Developers to build businesses on their operating system by directly monetizing their applications on Facebook;
- p. Developers will be able to sell ads on their application pages; and
- q. Developers will have a choice as to whether they monetize their application on Facebook's operating system.

II. DEVELOPERS RESPONDED ENTHUSIASTICALLY TO THE LAUNCH OF FACEBOOK PLATFORM, JUST AS FACEBOOK INTENDED

24. The blogging community went into an immediate and prolonged frenzy over this announcement. Paul B. Allen, founder of Ancestry.com and well known Internet blogger, summed up the general sentiment expressed by countless bloggers when he wrote that same day, "I saw history in the making today...I was lucky enough to be in San Francisco for the Facebook

1 f8 Platform launch event. This announcement was at least an 8.0 on the Richter scale. It was a
2 whopper.... A huge new opportunity was presented to the few hundred people in the room,
3 including 65 companies that have spent the last few weeks developing applications for the launch
4 of Facebook Platform. Facebook is inviting anyone to develop applications for their users on top
5 of what Mark calls their “social graph” – the core of their service which basically keeps track of
6 real people and their real connections to each other....[Facebook’s] growth will be dramatically
7 accelerated by the Platform announcement. If Facebook is adding 100,000 new users per day with
8 its own few simple applications (like its photo sharing, a very simple service that has given
9 Facebook twice as many photos as all other photo sharing sites combined), what will happen
10 when thousands or tens of thousands of developers start building apps in Facebook and marketing
11 them to more users? Facebook will reach 50 million, then 100 million, then 200 million users, and
12 beyond. Rather than continue to try to develop features within its own proprietary, closed
13 network, basically keeping all of its users to itself...Facebook intuitively gets the concepts that
14 are so brilliantly discussed in Wikinomics (which are so non-intuitive to old schools business
15 types), and has chosen to open up its network for all to participate in...Application developers
16 can now have access to core Facebook features, such as user profiles and user connections, and
17 even publishing to the News Feed, all with the control and permission of Facebook users...When
18 Facebook has 100 million users, in the not too distant future, having the ability to develop an App
19 in their system will almost be like being able to get a link on Google’s own home page.” (See
20 <http://www.paulallen.net/prediction-facebook-will-be-the-largest-social-network-in-the-world/>.)

21 25. To Developers, Facebook Platform represented not just an entire new operating
22 system, but an ecosystem that could potentially reorganize the entire Internet (potentially
23 replacing Google). The sentiment amongst Developers, as widely held throughout the industry
24 and reported by popular sites like TechCrunch ([http://techcrunch.com/2007/05/24/facebook-](http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-myspace/)
25 [launches-facebook-platform-they-are-the-anti-myspace/](http://techcrunch.com/2007/05/24/facebook-launches-facebook-platform-they-are-the-anti-myspace/)) and the Wall Street Journal
26 ([http://www.wsj.com/public/article/SB117971397890009177-](http://www.wsj.com/public/article/SB117971397890009177-wjdKpmjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)
27 [wjdKpmjAqS_9ZZbwiRp_CoSqvWQ_20070620.html](http://www.wsj.com/public/article/SB117971397890009177-wjdKpmjAqS_9ZZbwiRp_CoSqvWQ_20070620.html)), was that if you aren’t building for
28 Facebook, you will be left behind.

1 26. Facebook and the Developers who were selected to participate in the private beta
2 of Facebook Platform quickly set out to make Developers comfortable with this grandiose vision
3 and create a level of comfort to induce them to participate in this entirely new industry. For
4 instance, on May 29, 2007, just five days after Zuckerberg's announcement of Facebook
5 Platform, Venture Beat, the popular tech blog, did a Q&A with iLike founder, Ali Partovi, who
6 was also an early advisor and shareholder of Facebook. iLike was the first successful application
7 on Facebook Platform and for quite some time was the largest music application on the Facebook
8 Platform. iLike was purchased by MySpace in 2009.

9 Tell me about your experiences with Platform so far. You've been working on putting
10 iLike on Facebook for several months now. Yet on the integration since Friday morning,
11 there have been bugs and other issues on iLike's end. What's the status?

12 Partovi: So, first to give you the back-story on how we got involved. Over the past several
13 months, we've pushed and pushed with Facebook asking for some sort of exclusive
14 relationship. They repeatedly said they won't do an exclusive relationship but would
15 rather create a level playing field where we could compete with other third parties. We
16 then gave up a bit, and we were actually a bit late to the game learning about the platform
17 in detail. But when we finally did get access, our President, Hadi Partovi (my twin
18 brother) took very little time to decide this was a huge strategic priority. That was a month
19 ago. We re-prioritized everything else, and started moving our people off other projects
20 onto this. First two or three people, then a few more, and by the end it was a huge group of
21 engineers pulling back-to-back all-nighters for a week-long sprint to the launch.

22 What made iLike think that Facebook Platform would be a big deal? What stood out about
23 it?

24 Hadi has a strong background in the concept of platforms...at 24 he became the head of
25 product management in the IE group at Microsoft, and was a key player in the browser
26 wars. A month ago, even though the Facebook Platform wasn't fully fleshed out, he saw
27 just from the early beginnings of it that this could redefine web development. What he
28 said was, 'in the history of computing, there was the personal computer, there was

Windows, there was the web, and now the Facebook Platform'. You can imagine that I and most our company was pretty skeptical. But he makes these calls so we followed him. As to what stood out, it's a combination of three things: (1) the technology itself – Facebook Platform, like any platform, offers the developer building blocks to build apps faster than they could if they were starting from scratch, and to tap into a rich source of data & capabilities that would never otherwise be available; (2) the potential for viral spread – due to the way the Facebook news feed works, an app can spread across the community entirely by viral spread, as friends get notified when one person adopts it...this essentially bypasses the idea of trying to make your app 'viral' as a standalone, because Facebook is itself naturally viral; (3) the rhetoric from the Facebook management team, starting from the CEO himself, made it clear that they have a long-term commitment to a level playing field. For example, they absolutely refused to give us any special advantage, insisting that the market needs to see a level playing field...we offered them ownership in our company, money, etc – but they had no interest. Furthermore, they built and launched their own 'video' app, but left it to 'compete' on its own merits alongside other third-party apps rather than making it 'pre-installed' for all Facebook users. So #1 and #2 made this something we had to jump on, and #3 made us comfortable with the long-term strategic implications. (See <http://venturebeat.com/2007/05/29/qa-with-ilikes-ali-partovi-on-facebook/>.)

27. Partovi's comments immediately following Zuckerberg's announcement serve both to reflect the general sentiment held by Developers – that Facebook had made clear its long term commitment to a level playing field for Developers – and to show how Facebook's allies (Partovi was an early advisor and shareholder after all), were committed to helping Facebook grow its new operating system quickly and induce developers to participate with large investments of capital. After all, iLike saw massive growth in the two years following its decision to build on the Facebook Platform and was ultimately acquired by MySpace in 2009 in large part due to that growth.

III. FACEBOOK CONTINUED TO ACTIVELY PROMOTE FACEBOOK PLATFORM TO DEVELOPERS

28. Three days after Partovi's Q&A with Venture Beat, on June 1, 2007 Facebook released its own statement further clarifying its intentions with Facebook Platform, entitled "Platform is Here".

"Last Friday, we promised more information, so here it is.... With this evolution of Facebook Platform, we've made it so that any developer can build the same applications that we can. And by that, we mean that they can integrate their application into Facebook—into the social graph—the same way that our applications like Photos and Notes are integrated." (See <https://www.facebook.com/notes/facebook/platform-is-here/2437282130/>)

29. Thus Facebook promised that developers will be able to build applications in the same way that Facebook can by accessing the social graph.

30. As recently as February 23, 2016, this representation remained available on Facebook's web page.

31. Throughout the summer of 2007 Facebook remained on the offensive about its long-term commitment to developers on Facebook Platform. Facebook held numerous Hackathons and Developer Meetups in various cities to introduce new developers to Facebook Platform, it launched a Developer Feed and Wiki on its website to educate the Developer community on the benefits of Facebook Platform and help them more seamlessly invest their capital and resources towards building applications on the Facebook Platform. Facebook also held contests with prizes for developers. Zuckerberg continued to emphasize the revolutionary impact Facebook Platform would have on the Internet as a whole during this time. For instance, on July 17, 2007, Zuckerberg was interviewed by Time Magazine:

Time: the frenzy surrounding Facebook seems to have intensified quite dramatically over the past several months. What do you think is behind the company's newfound cachet?

Zuckerberg: I think the most recent surge, at least in the press, is around the launch of Facebook Platform. For the first time we're allowing developers who don't work at

1 Facebook to develop applications just as if they were. That's a big deal because it means
 2 that all developers have a new way of doing business if they choose to take advantage of
 3 it. There are whole companies that are forming whose only product is a Facebook
 4 Platform application. That provides an opportunity for them, it provides an opportunity for
 5 people who want to make money by investing in those companies, and I think that's
 6 something that's pretty exciting to the business community." (See
 7 <http://content.time.com/time/business/article/0,8599,1644040,00.html>)

8 32. In these public statements to Time Magazine, Zuckerberg made at least four
 9 distinct promises: (1) Facebook would allow developers to build applications as if they were
 10 developers employed by Facebook; (2) Facebook would offer developers on Facebook Platform a
 11 new way of doing business; (3) Facebook would support an ecosystem where entire companies
 12 could be formed whose sole business activity was within the Facebook Platform ecosystem; (4)
 13 Facebook would support an ecosystem where investors could reasonably rely on Facebook to
 14 make money by investing in companies solely devoted to the Facebook Platform ecosystem.

15 33. Then on September 17, 2007, Facebook went even further by setting up a \$10
 16 million fund exclusively devoted to providing grants to developers to build on Facebook
 17 Platform. Facebook and its partners in the fund would not even take equity in the developer; they
 18 were offering free money to build applications on Facebook Platform with the only commitments
 19 being that the grantee use the money to build on Facebook Platform and that Facebook's partners
 20 would have the opportunity to invest first if they were interested in doing so. When asked why
 21 Facebook was forming this fund, it replied: "We are forming this fund to help grow the Facebook
 22 application ecosystem. By decreasing the barrier to start a company, we hope to entice an even
 23 larger group of people to become entrepreneurs and build a compelling business on Facebook
 24 Platform. We hope this is also a funding model that other venture capitalists will follow." (See
 25 <http://500hats.typepad.com/500blogs/2007/09/facebook-announ.html>.)

26 34. Facebook's conduct in providing free money to developers to build applications on
 27 Facebook Platform implies a specific promise that it will support developers' opportunity to
 28 "build a compelling business on Facebook Platform" and that it is committed long term to the

1 stability of Facebook platform as an ecosystem that can support substantial investment and where
2 investors who participate in that ecosystem can expect a level playing field upon which to
3 generate a return on that investment.

4 35. Indeed, others were quick to follow Facebook's lead in making investors
5 comfortable with supporting this new industry with large sums of capital. Numerous venture
6 capital firms or funds were soon after established that invested solely in Facebook applications. In
7 September 2007, Wired Magazine reported the following: "And by turning itself into a platform
8 for new applications, Facebook has launched a whole new branch of the software development
9 industry, just like Bill Gates did with MS-DOS in the 1980s. By allowing developers to charge
10 for their wares or collect the advertising revenue they generate, Zuckerberg set up a system for
11 every programmer to get paid for their efforts. Now venture capitalists like Bay Partners are
12 scrambling to fund almost anyone who has an idea for a Facebook application." (See
13 https://archive.wired.com/techbiz/startups/news/2007/09/ff_facebook?currentPage=all.)

14 36. As a result of Facebook and its partners tremendous efforts in inducing Developers
15 to build applications on Facebook Platform and promising them the opportunity to build entire
16 industries, new sectors of investment and new types of applications, Facebook Platform quickly
17 became, in the words of AdWeek, "the most viral software distribution system ever". The overall
18 traffic to Facebook increased by one third within a mere three weeks of the announcement. By
19 December, the Facebook user base had gone from 24 million at the time of the announcement to
20 58 million, a 141% increase. Where Facebook had been adding about 100,000 new users per day
21 prior to Facebook Platform, it was now adding more than 250,000 users per day. (See
22 <http://www.adweek.com/socialtimes/top-10-facebook-stories-of-2007/211540>.)

23 37. While it touted Facebook Platform to Developers around the world, Facebook did
24 not state or imply that access to Facebook Platform might later be rescinded or provided on an
25 unequal basis.

26 38. By the end of 2009, in large part due to the Facebook Platform's success in
27 inducing developers to make investments in this new ecosystem, Facebook's user growth had
28

1 skyrocketed from 24 million active users at the time of the announcement of Facebook Platform
2 in May 2007 to over 350 million users in December 2009.

3 39. In late 2009, Facebook released a document “A Look Back on the App Economy
4 of Facebook in 2009,” in which it cited numerous success stories. For instance, Facebook app
5 Playfish was acquired by Electronic Arts that year for no less than \$275 million. Watercooler, a
6 leading fantasy sports application on the Facebook Platform, successfully raised \$5.5 million to
7 fuel its growth. Weardrobe was acquired by Like.com for an undisclosed sum. The document,
8 published by the Director of the Facebook Developer Network, ended: “We’d like to say thank
9 you to the developers and entrepreneurs who make up the Facebook Platform ecosystem and
10 congratulations on your accomplishments in 2009.” (See
11 [http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&](http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&story=351)
12 [story=351](http://web.archive.org/web/20091223055629/http://developers.facebook.com/news.php?blog=1&story=351).)

13 **IV. FACEBOOK LAUNCHED GRAPH API IN 2010**

14 40. On or about April 21, 2010, Facebook announced the launch of Graph Application
15 Programming Interface (“Graph API”) as a key new component of Facebook Platform at its
16 developer conference. Graph API allows Developers, with the consent of a Facebook user, to read
17 data from and write data to Facebook.

18 41. Developers can only access Facebook content (referred to as “endpoints”) with
19 explicit permission from the user. Examples of endpoints include a user’s birthdate, favorite
20 athletes, or photos.

21 42. Graph API also permits access to endpoints regarding a user’s friends. One such
22 endpoint is the set of photos that a user’s friends had chosen to share with that user (the “Friends’
23 Photos Endpoint”). A user’s friends can control access to their photos and other endpoints by
24 Developers even if they are not users of the Developer’s application.

25 43. By granting Developers access to the Friends’ Photos Endpoint, Facebook allowed
26 Developers to build applications that enabled a Facebook user to search the user’s friends’ photos
27 via a Facebook Platform application, assuming the user’s friend explicitly provided such
28 permission. A user’s friend had complete control over the permission settings. For instance, the

1 user's friend could provide access to all or no developers or to specific developers but not others,
2 as the user's friend saw fit.

3 44. During the announcement of Graph API, Facebook touted several features of
4 Graph API in order to increase its appeal to Developers such as 643.

5 45. Specifically, at the F8 Conference 2010, Zuckerberg announced: "The open graph
6 puts people at the center of the web – it means that the web can become a set of personally and
7 meaningfully semantic connections between people... Three years ago at our first F8 we launched
8 Facebook Platform, and together we all started an industry... We think what we have to show you
9 today will be the most transformative thing we've ever done for the web... Use the open graph to
10 make it so that people can have instantly social and personalized experiences everywhere they go.
11 We're gonna be announcing a few pieces of new technology that make this possible – the first is
12 the Graph API – makes it completely simple to read connections to Facebook's map of the
13 graph... implemented on top of an open standard." (See
14 <https://www.youtube.com/watch?v=4SOcRKINiSM>.)

15 46. After Zuckerberg completed his keynote at F8 2010, Bret Taylor, a Facebook
16 employee, further explained what Graph API meant for developers: "With Graph API every
17 object in Facebook has a unique ID, whether that object is a user profile, event, etc... you just
18 need to download an object with a new ID or download a connection with a new name. So to
19 download my friends you just need to download /btaylor /friends... And this applies for every
20 single object in Facebook. So let's say Facebook launches a new feature next year. We're not
21 gonna make you download a new SDK. You just need to download an object with a new ID or
22 download a connection with a new name. All of the code you already wrote will continue to work
23 perfectly. This is a really significant change for our new platform that I'm sure you can
24 appreciate. For the first time via the search capability of the Graph API, we're giving developers
25 the capability to search over all the public updates on Facebook. I think this is gonna lead to a
26 bunch of cool new applications and I'm really excited to see where people go with this... We've
27 built our core of the Facebook Platform from the ground up with simplicity, stability, and the
28

1 graph in mind. This graph that for the first time we're building together." (See
2 <https://www.youtube.com/watch?v=4SOcRKINiSM>.)

3 47. Facebook's employee Bret Taylor thus promised that: (1) developers can access
4 Graph API objects in a simple manner ("you just need to download an object with a new ID"); (2)
5 the accessible objects are ubiquitous ("this applies for every single object in Facebook"); (3) this
6 access will be sustained and can be relied upon by developers ("All of the code you already wrote
7 will continue to work perfectly... We're not gonna make you download a new SDK") (a Software
8 Development Kit (or "SDK") is a set of software development tools that allows for the creation of
9 applications for a particular development platform); (4) developers can search over all objects for
10 all public updates on Facebook; and (5) Facebook Platform guarantees simplicity, stability and
11 your ability to access and help build the graph with us.

12 48. The software industry uses a common and well-known convention of referring to
13 software by version number (e.g., version 1.0, 2.0, etc.) to signify the existence of separate
14 versions of software and to identify a particular version of the software. When Facebook
15 announced the launch of Graph API, it did not refer to Graph API as having different versions.
16 Facebook thereby signified that Graph API's open, equal, and neutral nature would not change.
17 This representation was of course a deliberate decision on Facebook's part to continue to entice
18 developers by conveying a sense of security around investing time, money and effort building
19 applications on its revolutionary platform.

20 49. Facebook did not represent that it had reserved the right to terminate any endpoint
21 of Graph API. To the contrary, Facebook repeatedly expressed its long-term commitment to this
22 API.

23 50. This extension of the Facebook Platform ecosystem to further expand its
24 reorganization potential for the entire Internet contributed even further to Facebook's meteoric
25 rise and induced even more investors and developers to expand the industry Facebook had
26 created. By way of example, on October 21, 2010, Facebook partnered with Kleiner Perkins
27 Caufield & Byers, Zynga and Amazon to launch a \$250 million fund to invest in new apps on the
28 Facebook Platform. By September 19, 2011, Facebook Platform had created over 182,000 jobs

1 and \$12.19 billion in value to the U.S. economy. Facebook now boasted over 850 million users as
2 of late 2011.

3 51. On September 24, 2011, Facebook further extended its long-term commitment to
4 Facebook Platform by expanding Open Graph to accelerate its reorganization of the disparate
5 content on the Internet. (See [http://mashable.com/2012/05/24/facebook-developer-platform-](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)
6 [infographic/#fDCxuACag5qr](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr).) In his keynote address at F8 2011 on September 24, 2011,
7 Zuckerberg stated to a packed auditorium of developers: "The next era is defined by the apps and
8 depth of engagement that is now possible now that this whole network has been established... In
9 2007 in our very first F8 I introduced the concept of the social graph, all of the relationships
10 between people in the world. Last year we introduced the concept of the open graph as not only
11 the map of all the relationships but all of the connections in the world... This year, we're taking
12 the next step: we're going to make it so that you can connect to anything you want in any way
13 you want... Sometimes I think about what we're doing with the open graph is helping to define a
14 brand new language for how people connect... every year we take the next step and make some
15 new social apps possible. Open graph enables apps that focus primarily on two types of things:
16 the first is filling out your timeline, and the second is helping you discover new things through
17 your friends."

18 52. Facebook thus made at least four distinct promises in this September 24, 2011
19 announcement: (1) Facebook has a long-term commitment to the Facebook Platform and ensuring
20 a fair playing field for developers and has had such a commitment for over four years now; (2)
21 Facebook is committed to extending the Facebook Platform to provide developers with more
22 ways to innovate and build businesses; (3) in keeping with this long term commitment, Facebook
23 will continue to help make new kinds of social apps possible; and (4) Facebook is in particular
24 focused on helping you discover new things through your friends and Facebook Platform will
25 enable developers seeking to do so.

26 53. 643 relied upon these representations, and others, as to the fair, level playing field
27 and the open, equal, and neutral nature of Facebook's Platform and Graph API, and invested
28

1 considerable time, energy, and money developing an application to make use of Graph API on
2 Facebook's Platform.

3 **V. THE FTC ORDERED FACEBOOK NOT TO MISREPRESENT THE MANNER**
4 **IN WHICH FACEBOOK PROVIDES ACCESS TO USER DATA**

5 54. On or about July 27, 2012, the United States Federal Trade Commission ("FTC")
6 entered a Decision and Order (the "FTC Order") against Facebook.

7 55. The FTC Order entered following a consent agreement between FTC and
8 Facebook.

9 56. The FTC noted in the FTC Order that the FTC had reason to believe Facebook has
10 violated the Federal Trade Commission Act.

11 57. The FTC Order provided, among other things, that Facebook and its
12 representatives "shall not misrepresent in any manner, expressly or by implication, the extent to
13 which it maintains the privacy or security of covered information"

14 58. The FTC Order defined "covered information" to include an individual
15 consumer's photos, among other things.

16 59. The FTC Order also provided that Facebook and its representatives "shall not
17 misrepresent in any manner, expressly or by implication . . . the extent to which [Facebook]
18 makes or has made covered information accessible to third parties."

19 **VI. IN DECEMBER 2012, PLAINTIFF 643 BECAME A FACEBOOK DEVELOPER**
20 **AND BEGAN DEVELOPING AN APPLICATION**

21 60. In December 2012, 643 entered into the Facebook Developer Platform, which
22 permitted 643 to develop applications using the Graph API.

23 61. 643 has developed a unique automated image classification capability, which it
24 used to develop an application called Pikinis ("the App"). The App was available for download
25 on any iOS-compatible device, including the iPhone and iPad. The App enabled Facebook users
26 to reduce time spent searching by automatically classifying photos that their friends have shared
27 with them through Facebook's network, assuming their friends have provided such permission to
28 Developers.

1 62. The App required use of Facebook's Graph API, and specifically the Friends'
2 Photos Endpoint. The App used 643's pattern-recognition technology to search through shared
3 photos and identify those of their friends at the beach or in the summer.

4 63. The App could only be used to sort through photos that a user's friend had chosen
5 to share with that user based on the friend's Facebook privacy settings. 643 conducted initial user
6 research that indicated considerable consumer demand for the App, among both men and women.
7 Facebook has never expressed any disapproval of the App as the only content it accesses is
8 content already available on Facebook.

9 64. 643 made plans to market and promote the App to attract users.

10 65. 643 sold the App for \$1.99 in Apple's App store. The basic version of the App
11 allowed a user to run a certain number of searches per month. In addition, users could choose to
12 pay for premium access, which allowed unlimited searching. 643 offered different pricing tiers
13 for premium access, ranging from \$1.99 for a monthly subscription, to \$6.99 for 6 months, to
14 \$9.99 for 12 months.

15 66. Facebook benefits from the work of Developers such as 643 who create
16 applications for use with Facebook. These applications can enhance user experience and drive
17 traffic to Facebook's website and mobile app, which in turn generates revenue for Facebook
18 through advertising sales, its primary revenue stream. It is no secret that Facebook's meteoric rise
19 from 24 million users in 2007 to almost 1.6 billion users in 2016 rested in significant part on the
20 release and growth of Facebook Platform.

21 **VII. FACEBOOK RE-ITERATED ITS PROMISES RELATED TO GRAPH API**
22 **AND FACEBOOK PLATFORM AT ITS 2014 F8 CONFERENCE**

23 67. The extension of the Graph API at F8 2011 was simply the next step in Facebook's
24 long term commitment to serve as a platform for other developers, a commitment that every
25 statement and action it took since May 2007 (a period of well over 4 years) reaffirmed without a
26 shadow of a doubt. The extension of the Facebook Platform continued to accelerate the massive
27 economy Facebook had built. By January 2012, Facebook Platform had created 232,000 jobs in
28 the EU alone, amounting to \$15.3 billion of value to the European economy. By February 2012,

1 250 million people were playing games on Facebook Platform each day (that is 12 times more
2 people than the average viewership of American Idol, the highest-rated TV show in the history of
3 television). By April 2012, 7 of the 10 highest grossing apps in the Apple App Store were built on
4 Facebook Platform. (See [http://mashable.com/2012/05/24/facebook-developer-platform-](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr)
5 [infographic/#fDCxuACag5qr](http://mashable.com/2012/05/24/facebook-developer-platform-infographic/#fDCxuACag5qr).) It should be noted, in large part due to its long-term commitment
6 to the Facebook Platform, Facebook exceeded 1 billion users in 2012.

7 68. By April 30, 2014, at the 2014 F8, having accumulated over 1.3 billion users,
8 Facebook decided that certain parts of this massive application ecosystem it had built (along with
9 hundreds of thousands of developers and billions of dollars of outside investment capital) were
10 better kept to itself. Despite having made this decision, Facebook made numerous promises that it
11 explicitly never intended to keep. Zuckerberg announced during his keynote: "This is gonna be a
12 different kind of F8. In the past we've had F8 when we've had a big product announcement or
13 new direction we were going in. This always meant a lot of different changes for your apps. Now
14 we're focused on building a stable mobile platform. You're trying to build great mobile apps and
15 businesses. And we want to bring this community together once per year to talk about all the
16 different things we're doing to support you. We've heard from you that you want to use Facebook
17 Platform to do 3 things. Help you build, grow and monetize your apps."

18 69. Thus, Zuckerberg reiterated the promise that Facebook had expressed to
19 developers unequivocally for over seven years now: that Facebook is committed in the long term
20 to helping them build, grow and monetize their apps.

21 70. Zuckerberg continued: "As I said we're really focused on building a stable mobile
22 platform. And one thing you may not know, is that all of our mobile apps are built on top of the
23 very same platform and APIs that you guys use when you're writing Facebook and all our
24 engineers use the same tools and read all the same documentation that you do.... It's really
25 important for you and for all of our teams internally that we build stable and efficient
26 infrastructure that you can rely on for the long term. So this has been a really big focus for us.... I
27 want to start today by going through a few things we're doing to make our platform even more
28 stable and reliable for you to build, grow and monetize your apps. You want to be able to build

1 something and know that it's gonna be able to work for a while. So today for the first time we're
 2 introducing a 2-year stability guarantee for all of our core API platforms...so even if we change
 3 these core APIs in the future, we're guaranteeing that we're going to keep supporting them as is
 4 for at least two years and maybe longer from the time we make that change. We're still gonna
 5 experiment with new features and different things but we're gonna mark them as beta so you
 6 know what's gonna be part of this core stable platform. We're also introducing API versioning.
 7 This is something we want to make sure that all the apps we wrote two years ago keep working.
 8 This is something we wanted internally as we build on this platform, so now everything is gonna
 9 be versioned so you get to decide which version of the API you get to build against."

10 71. Accordingly, Zuckerberg made at least four promises that: (1) Facebook continues
 11 to provide a level playing field to developers where developers use the same tools as Facebook
 12 employees to develop apps; (2) Facebook continues to be committed in providing developer
 13 access "that you can rely on for the long term"; (3) Facebook promises that for all of its core API
 14 endpoints it will guarantee their stability for no less than two years going forward; (4) Facebook
 15 promises that it will let developers choose which version of the API they would like to access as
 16 it introduces API versioning ("This is something we want to make sure that all the apps we wrote
 17 two years ago keep working. This is something we wanted internally as we build on this platform,
 18 so now everything is gonna be versioned so you get to decide which version of the API you get to
 19 build against.").

20 72. Many developers initially applauded Zuckerberg's 2-year stability guarantee and
 21 the ability to let developers choose which version of the API to build against. One blogger
 22 applauded Facebook's commitment to developers in noting: "Facebook co-founder and CEO
 23 Mark Zuckerberg announced a two-year stability guarantee for all of the company's core APIs
 24 and platforms. In fact every API launched by Facebook will now be versioned, and developers
 25 will be able to choose which version to build on." (See
 26 [http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref)
 27 [core-apis-sla-fix-major-bugs-within-48-hours/#gref](http://thenextweb.com/facebook/2014/04/30/facebook-announces-two-year-stability-guarantee-core-apis-sla-fix-major-bugs-within-48-hours/#gref).) TechCrunch and many other bloggers also
 28 reported on the API Guarantee, stating that developers "will be able to build with confidence

1 knowing that a core API will be available for at least two years". (See
 2 <http://techcrunch.com/2014/04/30/facebook-api-guarantee/>.)

3 **VIII. FACEBOOK THEN IMPLEMENTED POLICIES THAT DEPARTED**
 4 **RADICALLY FROM ZUCKERBERG'S ANNOUNCEMENT AT F8 2014**

5 73. Unfortunately for the Developer community, Zuckerberg's announcement directly
 6 contradicted the policy that Facebook immediately began implementing that very day.
 7 Zuckerberg's statement that Developers, like Facebook employees, would be able to choose
 8 which API to use was simply false, and he must have known this statement to be false at the time
 9 he made it as only hours later Facebook sent Developers a notice that the Graph API they had
 10 come to rely on and upon which Facebook had enticed them to invest billions of dollars around
 11 was to be permanently retired in one year. Zuckerberg explicitly omitted and contradicted the
 12 one-year lifespan of Graph API during his keynote address. But given that Zuckerberg's
 13 announcement and the notice to developers occurred on the very same day, Zuckerberg must have
 14 known of this change while making his statements and approved of such changes in advance.

15 74. Moreover, the 2-year stability guarantee turned out not to apply to the original
 16 Graph API and only to future APIs. Thus Facebook pulled the rug out from under the Developer
 17 community and took full economic advantage of the ecosystem Developers had built, but
 18 Zuckerberg's keynote address still generated sound bites consistent with his previous
 19 representations that Facebook was maintaining a fair and level playing field for Developers.
 20 Zuckerberg was forced to make statements he knew at the time to be false precisely because it
 21 was obvious to everyone in the developer community, especially Zuckerberg, that Facebook had
 22 for seven years been making clear and unambiguous promises to developers that they could rely
 23 on Facebook Platform over the long term to provide a fair playing field and to enable developers
 24 to build businesses.

25 75. Finally, Graph API explicitly removed endpoints that were of high value to
 26 Developers, like the ability to access Photos, which for years Facebook had touted as one of its
 27 most valuable and highly trafficked features in order to entice developers to build applications.
 28 Facebook's only justification for removing access to photos was that this endpoint was "rarely

1 used”, which contravenes every public statement Facebook had previously stated for over seven
2 years in which Photos were consistently touted as its #1 application and driver of user
3 engagement, an application that captured more photos and traffic than the next three photo sites
4 on the Internet combined.

5 76. Facebook’s behavior of intentionally inducing Developers to build Facebook’s
6 business and then pulling the rug out from under them is a repeated pattern in Facebook’s growth
7 story. It is not an isolated incident simply related to Graph API versioning and the thousands of
8 developers, like 643, whose businesses were destroyed by this bait and switch tactic.

9 77. As an example, Facebook recently executed another bait and switch tactic that
10 caused thousands of Developers to go out of business and lose countless millions of dollars of
11 enterprise value and capital investment. At the same time that Zuckerberg pulled the rug out from
12 Developers using photos and other endpoints in the Graph API at F8 2014, he also announced
13 Facebook’s acquisition and reliance on Parse as its new preferred tool for developers to build on
14 Facebook Platform. Parse was a popular development platform for creating applications for
15 Facebook, which handled much of the back-end functionality of such applications, allowing
16 Developers to focus on features that matter to users. Zuckerberg stated in the same keynote where
17 he announced the Graph API 2.0: “One of the things we’re really excited about offering is
18 Parse... We make it easy to focus on your app, the thing that will get you users and make you
19 money... and Parse takes care of all the rest.” A Facebook employee who followed Zuckerberg on
20 stage went on to note that they had expanded the free tier to make it easier to grow on Parse,
21 giving developers “unlimited requests, unlimited recipients, free analytics”. Zuckerberg then
22 finished his thoughts on Parse by saying “We’re excited, we’re aligned with your app, and we
23 hope that it does get huge.”

24 78. As a result of this and many other similar statements and actions by Facebook,
25 hundreds of thousands of Developers began using Parse to build applications on Facebook
26 Platform. Parse’s platform on Facebook states: “From startups to the Fortune 500, hundreds of
27 thousands of developers trust us.”
28

79. Then, abruptly, on January 28, 2016, Facebook announced that Parse would be shutting down: “We have a difficult announcement to make. Beginning today we’re winding down the Parse service, and Parse will be fully retired after a year-long period ending on January 28, 2017. We’re proud that we’ve been able to help so many of you build great mobile apps, but we need to focus our resources elsewhere.” The statement continues: “We understand that this won’t be an easy transition... We know that many of you have come to rely on Parse, and we are striving to make this transition as straightforward as possible.”

80. Many developers immediately commented on the devastating effect this would have on their app, business and investment in the Facebook Platform. One developer wrote: “@ParseIt Wow... Have spent months optimizing my app with your service to launch soon, and now this... Seems sudden... #utterlydisappointed.” Another: “@ParseIt it would be nice to hear a little bit more about the need to focus your resources elsewhere.” “@ParseIt my app had 2.5M users on your platform...this is sickening.”

81. The incident with Parse demonstrates a continued clear pattern on the part of Facebook to make clear and unambiguous promises to developers, to engage in conduct that induces developers to make substantial investments of time and money (all of which helped make Facebook one of the most valuable companies in the world today), and then Facebook seems to think that it can violate these promises with impunity the moment it becomes convenient for them to do so.

IX. PLAINTIFF 643 RECEIVED NOTICE FROM FACEBOOK THAT ITS APP WOULD NO LONGER FUNCTION

82. On January 20, 2015, Facebook sent an email to 643 stating that 643 must “upgrade” the App to Graph API v. 2.0 by April 30, 2015. The email stated that Facebook would end third-party access to the Friends’ Photos Endpoint on April 30, 2015. The App will not function at all without access to the Friends’ Photos Endpoint, so Facebook’s suggestion that 643 “upgrade” the App to Graph API v. 2.0 was not possible.

83. By deciding to end access to the Friends’ Photos Endpoint, Facebook has made it impossible for 643 to continue to operate the App, to abide by the license agreements and

1 purchase terms entered into by 643 with its users, and for 643 to recoup any of its investment of
2 capital, human labor, time, effort, and energy.

3 84. 643 has sold approximately 5,000 copies of the App since its beta launch. A
4 substantial portion of App users have paid for premium access. 643 was not able to execute its
5 full public launch as a result of Facebook's decision.

6 85. Each one of the App users entered into a license agreement with 643.

7 86. Facebook requires Developers to enter into license agreements with users of
8 applications for Facebook. These license agreements must, among other things, require that the
9 users of these applications adhere to Facebook's terms of service.

10 87. Accordingly, Facebook knew, or had reason to know, about the existence of 643's
11 license agreements with its users.

12 88. Had Facebook refrained from ending access to Friends' Photos Endpoint, 643
13 could have quickly begun to generate hundreds of thousands of dollars of revenue on a monthly
14 basis.

15 89. In total, 643 expended approximately \$1.15 million in capital and uncompensated
16 labor by its team members in developing and marketing the App.

17 90. 643 attended Facebook events for Developers and made known the harm caused
18 verbally and via email to the appropriate Facebook employees.

19 91. Faced with the imminent loss of its investment, 643 wrote to Facebook on March
20 16, 2015, and informed Facebook that its decision to discontinue access to the Friends' Photos
21 Endpoint would harm 643 in several ways. 643 informed Facebook that it had reasonably relied
22 on Facebook's representations that the endpoints would remain open, and that Developers would
23 have an equal opportunity to integrate applications into the social graph.

24 92. 643 requested that Facebook continue to permit Developers to have access to the
25 Friends' Photos Endpoint.

26 93. 643 alerted Facebook to the considerable harm it would suffer should access be cut
27 off. 643 also noted that some of its users had entered into subscriptions that extend beyond the
28 April 30, 2015, cut-off date, and that these users could be entitled to refunds of their purchases.

1 94. Thus Facebook had actual knowledge of the contracts 643 had entered into with its
2 users. In addition, Facebook had actual knowledge of the prospective economic relationships 643
3 expected with its users, as well as Facebook users generally.

4 95. On or about April 30, 2015, Facebook did end access to the Friends' Photos
5 Endpoint.

6 96. As a result of Facebook ending access to the Friends' Photos Endpoint, the App no
7 longer functions.

8 97. On information and belief, Facebook has been working on its own applications
9 using image recognition.

10 98. On June 15, 2015, less than two months after closing access to the Friends' Photos
11 Endpoint for Developers, Facebook announced the launch of "Moments," which allows users to
12 "sync" photos they have taken with their friends and, using Facebook's facial recognition
13 software, allows users to search photos that their friends have shared with them. *See*
14 <http://newsroom.fb.com/news/2015/06/introducing-moments/> (last accessed October 27, 2015).

15 99. Instagram is an on-line photo sharing service that Facebook acquired in 2012.

16 100. In June 2015, just two months after Facebook closed access to the Friends' Photos
17 Endpoint, Instagram announced enhancements to its Search and Explore features, which allow
18 users to search through photos that have been shared with that user on Instagram.

19 101. On information and belief, in addition to 643, other Developers have been
20 adversely impacted by Facebook closing access to certain endpoints of Graph API, including
21 Friends' Photos.

22 102. On September 21, 2015, the Wall Street Journal reported that Facebook's decision
23 to restrict access to Graph API has caused a drug addiction researcher to halt his research efforts,
24 shut down a voter-registration tool used by the 2012 Obama campaign, and decommissioned an
25 app designed to help first generation college students connect with one another. Deepa
26 Seetharaman & Elizabeth Dwoskin, "Facebook's Restrictions on User Data Cast a Long Shadow;
27 Curbs disrupt startups, academic research and even political strategy", THE WALL STREET J.,
28

1 Sept. 22, 2015, at B1 (available at

2 <http://www.wsj.com/articles/facebook-restrictions-on-user-data-cast-a-long-shadow-1442881332>).

3 103. The Wall Street Journal also reported in the same article that Facebook reached an
4 unspecified compromise with dating app Tinder that permitted some form of access to photos of
5 mutual friends.

6 104. Facebook has not offered 643 a compromise that would permit the App to function
7 and even if Facebook were to make such an offer, the harm to 643 is irreparable as its team
8 members have moved on to new employment and its code has been fully retired.

9 105. Instead, the only proposed technical “fix” by Facebook was to create an offline,
10 searchable cache of Facebook’s users’ photos. But this solution (1) on its face violates
11 Facebook’s own terms, (2) would not permit the App to function as originally intended and in the
12 same manner it had been, and (3) could result in a grave and substantial abuse of user trust,
13 violate user privacy, and gut the core principle of an individual’s ownership and control of their
14 own data.

15 106. Facebook did not terminate access to the Friends’ Photos Endpoint for the purpose
16 of enhancing user privacy, as users already possessed complete control over such data. Instead, it
17 took these actions for the purpose of improperly monopolizing for itself the ability to access the
18 data previously accessible through the Friends’ Photos Endpoint and other terminated endpoints,
19 and to create applications based on those data. As a result of these actions, users now have less
20 control over this data. They are not permitted to share it with other applications they trust but only
21 with Facebook.

22 107. In sum, Facebook acts as a platform when it wants to exploit Developer creativity
23 and resources, and a monopolist when it wants to secure areas of the ecosystem for itself once
24 developer creativity and resources have been invested.

25 108. As set forth above, Facebook made repeated, clear, and unambiguous promises
26 upon which many developers, including 643, relied, over a period of more than seven years, and
27 which were broken by Facebook. These broken promises directly and substantially harmed 643,
28

1 nullifying its investment of time and money and making it impossible to generate revenues and
2 profits.

3 109. Facebook deliberately baited, induced, and enticed (through countless promises in
4 both words and conduct) developers to help turn Facebook from a website that had raised \$37
5 million and secured 24 million users to a company that is now one of the most valuable
6 enterprises in the world.

7 **COUNT I: VIOLATION OF BUSINESS AND PROFESSIONS CODE §§ 17200 et seq.**
8 **[Against all Defendants]**

9 110. 643 re-alleges and replays paragraphs 1 through 109 as though set forth fully
10 herein.

11 111. Facebook's representations and conduct were designed to, and did, entice 643 and
12 other Developers to create applications for Facebook with promises of, among other things, a
13 level playing field, fair competition, and a chance to build a business. Facebook decided to open
14 certain endpoints, and not others, precisely to induce developers to build certain types of
15 applications, including advanced photo-searching applications. Facebook promised Developers
16 that their own advanced photo-searching applications would be treated on a level playing field
17 with any photo-searching applications Facebook decided to launch in the future. Facebook also
18 promised developers it was committed over the long term to enable Developers to build
19 businesses using advanced photo-searching applications.

20 112. Facebook caused substantial harm to 643 and other Developers when it then
21 decided to terminate Developers' ability to build advanced photo-searching applications, while
22 retaining its own ability to create these kinds of applications, because 643, like other Developers,
23 had invested considerable time and resources in developing this kind of application for Facebook.

24 113. The efforts by 643 and other Developers helped to drive user adoption of
25 Facebook by enhancing user experience, thus creating substantial additional revenue and user
26 base for Facebook's benefit.

27 114. In addition, Facebook took advantage of the market research and development
28 efforts by 643 and other Developers, which proved that advanced photo-searching applications

1 represented a massive market, perhaps one of the most attractive markets to help Facebook grow
2 its revenues going forward, as evinced by Facebook's recent announcement of "Moments", its
3 own photo searching application (see "Facebook Moments is a Smarter Photo App – Much
4 Smarter, in *Wired Magazine*, June 15, 2015, [http://www.wired.com/2015/06/facebook-](http://www.wired.com/2015/06/facebook-moments/)
5 [moments/](http://www.wired.com/2015/06/facebook-moments/)).

6 115. Facebook's decision to end access to the Friends' Photos Endpoint does not
7 enhance user privacy because the App could only sort through photos that had already been
8 shared with the App user and the App user and the user's friends had full control over which, if
9 any, developers were permitted to access their photos.

10 116. Instead, by ending Developer access to the Friends' Photos Endpoint, Facebook
11 has monopolized for itself the ability to create applications capable of searching or sorting photos,
12 which harms consumers, Developers, and competitors.

13 117. No countervailing benefits to competition or consumers stemming from
14 Facebook's representations and conduct exist.

15 118. The harm to 643 and other Developers by Facebook's representations and conduct
16 outweighs the reasons, justifications, or motives for the representations and conduct by Facebook.

17 119. 643 could not have reasonably avoided its injury because Facebook only
18 announced its decision to terminate access to the Friends' Photos Endpoint after 643 had made
19 considerable investment and Facebook had approved the App.

20 120. 643 also requested that Facebook not end access to Friends' Photos Endpoint, but
21 Facebook did not change its decision.

22 121. Facebook's actions thus constituted an unfair business practice under California's
23 Unfair Business Practices Act.

24 122. Facebook's decision to end access to the Friends' Photos Endpoint was also
25 unlawful.

26 123. In taking the actions alleged herein, Facebook acted with fraud, malice and
27 oppression, and in reckless disregard of the rights of 643.

28

124. 643 suffered substantial injury as a result of Facebook's actions, including the loss of its investment in developing the App and lost revenue.

125. Accordingly, Facebook is liable to 643 for violation of California's Unfair Business Practices Act.

126. As a proximate result of the acts and conduct of Facebook herein alleged, 643 has found it necessary to engage attorneys, and incur attorney's fees, and will continue to incur attorney's fees, in an unascertained amount to be established according to proof following the conclusion of trial.

COUNT II: PROMISSORY ESTOPPEL

[Against all Defendants]

127. 643 re-alleges and repleads paragraphs 1 through 126 as though set forth fully herein.

128. Facebook clearly and unambiguously promised that:

- a. Developers would be able to integrate their applications into Facebook's social graph;
- b. Developers would have the same access to integration of their applications as Facebook;
- c. Developers could easily access Graph API objects;
- d. Facebook would support Developers in achieving mass distribution of Developer applications;
- e. Facebook would provide adequate tools for developers to build their applications;
- f. Developers would be able to build a business on Facebook Platform;
- g. Developers would be able to monetize their applications on Facebook by selling ads on their application pages;
- h. Developers would be able to build applications on a fair, level playing field;
- i. Developer applications would not be "second class citizens" compared to Facebook's own applications;

1 j. Developer applications that compete with Facebook applications would be
2 welcome; and

3 k. As long as Developer applications abided by Facebook Terms of Service,
4 Facebook will be neutral as to these applications.

5 129. 643 invested considerable capital, labor, time, and effort into developing the App
6 in reliance on these promises.

7 130. 643's reliance was reasonable because Facebook had consistently made these
8 representations for seven years without ever stating that it could prevent Developers from
9 building the specific kinds of applications Facebook was enticing them to build all along.

10 131. 643's reliance was foreseeable by Facebook.

11 132. 643 was injured as a result of its reliance on Facebook's promises, which
12 Facebook did not keep, in an unascertained amount in excess of \$25,000.00, to be established
13 according to proof at trial.

14 133. Accordingly, Facebook is liable to 643 for damages.

15 **COUNT III: NEGLIGENT MISREPRESENTATION**

16 **[Against all Defendants]**

17 134. 643 re-alleges and repleads paragraphs 1 through 133 as though set forth fully
18 herein.

19 135. Facebook represented that

20 a. Developers would be able to integrate their applications into Facebook's social
21 graph;

22 b. Developers would have the same access to integration of their applications as
23 Facebook;

24 c. Developers could easily access Graph API objects;

25 d. Facebook would support Developers in achieving mass distribution of Developer
26 applications;

27 e. Facebook would provide adequate tools for developers to build their applications;

28 f. Developers would be able to build a business on Facebook Platform;

- g. Developers would be able to monetize their applications on Facebook by selling ads on their application pages;
- h. Developers would be able to build applications on a fair, level playing field;
- i. Developer applications would not be “second class citizens” compared to Facebook’s own applications;
- j. Developer applications that compete with Facebook applications would be welcome; and
- k. As long as Developer applications abided by Facebook Terms of Service, Facebook will be neutral as to these applications.

136. Such representations were untrue, because Facebook later claimed that it had retained for itself the right to terminate the Friends’ Photos Endpoint, and did close the Friends’ Photos Endpoint to Developers, while Facebook kept for itself the ability to develop applications that access photos.

137. Regardless of its actual belief, Facebook must have made those representations without any reasonable ground for believing the representations to be true.

138. Facebook conveyed the representations in a commercial setting for a business purpose, namely inducing Developers to develop applications for Facebook.

139. Facebook made those representations with the intent to induce Developers, including 643, to develop applications, including the App, that used the Friends’ Photos endpoint, thereby adding features to Facebook, enhancing Facebook’s functionality and user experience, and generating more revenue for Facebook.

140. 643 was not aware that Facebook’s representations were false, and 643 developed the App in reliance on the truth of Facebook’s representations.

141. 643’s reliance on the truth of Facebook’s representations was justified because Facebook had consistently made these representations for seven years without ever stating that it could prevent Developers from building the specific kinds of applications Facebook was enticing them to build all along.

1 142. 643 was injured as a result of its reliance on Facebook's representations, in an
2 unascertained amount in excess of \$25,000.00, to be established according to proof at trial.

3 143. In taking the actions alleged herein, Facebook acted with fraud, malice and
4 oppression, and in reckless disregard of the rights of 643.

5 144. Accordingly, Facebook is liable to 643 for damages.

6 **COUNT IV: INTENTIONAL INTERFERENCE WITH CONTRACT**
7 **[Against all Defendants]**

8 145. 643 re-alleges and repleads paragraphs 1 through 144 as though set forth fully
9 herein.

10 146. 643 had entered into license agreements and subscriptions for premium access
11 with its users.

12 147. Facebook knew of these license agreements and subscriptions.

13 148. Facebook intentionally interfered with and disrupted these contracts when it stated
14 that it would end 643's access to the Friends' Photos Endpoint on April 30, 2015, despite
15 knowing that interference with these contracts would be certain or substantially certain to occur
16 as a result of Facebook's act in ending 643's access.

17 149. Facebook further intentionally interfered with and disrupted 643's contracts with
18 its users when it did terminate 643's access to the Friends' Photos Endpoint on April 30, 2015,
19 despite knowing that interference with these contracts would be certain or substantially certain to
20 occur as a result of Facebook's act in ending 643's access.

21 150. 643's contract with its users was thereby disrupted by Facebook.

22 151. As a result, 643 has suffered and will suffer damage in an unascertained amount in
23 excess of \$25,000.00 to be established according to proof at trial.

24 152. In taking the actions alleged herein, Facebook acted with fraud, malice and
25 oppression, and in reckless disregard of the rights of 643.

26 153. Accordingly, Facebook is liable to 643 for damages.

**COUNT V: INTENTIONAL INTERFERENCE WITH
PROSPECTIVE BUSINESS RELATIONS
[Against all Defendants]**

154. 643 re-alleges and repleads paragraphs 1 through 153 as though set forth fully herein.

155. 643 had an expectation of economic benefit from third parties, including its users who downloaded the App and other Facebook users who may have downloaded the App if 643 had marketed the App as it planned.

156. Facebook knew of 643's relationship with the users of the App, and knew of 643's plans to market the App.

157. Facebook intentionally disrupted these relationships when it announced that it would end 643's access to the Friends' Photos Endpoint on April 30, 2015, despite knowing that interference with these relationships would be certain or substantially certain to occur as a result of Facebook's act in ending 643's access.

158. Facebook further intentionally interfered with and disrupted 643's relationships with its users when it did terminate 643's access to the Friends' Photos Endpoint on April 30, 2015, despite knowing that interference with these relationships would be certain or substantially certain to occur as a result of Facebook's act in ending 643's access.

159. 643's relationship with its users was thereby disrupted, and will be further disrupted.

160. As a result, 643 suffered damage in an unascertained amount in excess of \$25,000.00 to be established according to proof at trial.

161. In taking the actions alleged herein, Facebook acted with fraud, malice and oppression, and in reckless disregard of the rights of 643.

162. Accordingly, Facebook is liable to 643 for damages.

JURY TRIAL DEMAND

163. 643 demands a trial by jury on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff 643 asks this Court to enter judgment against Defendant Facebook, Inc., as follows:

A. A judgment or order declaring Facebook's conduct, as alleged, unlawful under California's Unfair Business Practices Act;

B. A judgment, order, or award of damages adequate to compensate 643;

C. A permanent injunction prohibiting Facebook from removing Developer access to the Friends' User Photos Endpoint;

D. A permanent injunction prohibiting Facebook from interfering with 643's contracts or prospective business relations;

E. An award of its reasonable attorneys' fees and costs;

F. Punitive damages and/or treble damages as provided by California's Unfair Business Practices Act; and

G. Such other further relief as this Court or a jury may deem proper and just.

Dated: February 26, 2016

CRITERION LAW

BIRNBAUM & GODKIN, LLP

By: 

Basil P. Ethenakis, Esq.

David S. Godkin (admitted *pro hac vice*)

Andrew A. Caffrey, III (admitted *pro hac vice*)

Attorneys for Plaintiff

Six4Three, LLC

EXHIBIT 1

The Facebook logo, consisting of the word "facebook" in a white, lowercase, sans-serif font, is centered on a dark, textured background that resembles a close-up of a surface with many small, light-colored specks.

f8 Event and Facebook Platform FAQ

What is f8?

f8 was an event held at the San Francisco Design Center on May 24, 2007, during which Mark Zuckerberg unveiled the next evolution of Facebook Platform. The event included an eight-hour "hackathon," where both Facebook engineers and outside developers collaborated on building new applications on the new Facebook Platform.

What is a "hackathon"?

A hackathon is an all-night coding event during which Facebook engineers work on any project that interests them. Facebook uses the word "hackathon" to refer to a gathering of engineers, who possess technical expertise and collaborate on innovative projects. Facebook has a tradition of holding frequent developer hackathons, which have spawned some of the most popular features and applications on the site.

What is Facebook Platform?

Facebook Platform is a development system that enables companies and developers to build applications for the Facebook website, where all of Facebook's 24 million active users can interact with them. Facebook Platform offers deep integration into the Facebook website, distribution through the social graph and an opportunity to build a business.

What is the social graph?

The social graph is at the core of Facebook. It is the network of connections and relationships between people on Facebook and enables the efficient spreading and filtering of information. Just as people share information with their friends and the people around them in the real world, these connections are reflected online in the Facebook social graph.

What is a Facebook application?

A Facebook application uses Facebook Platform to access information from the social graph, offering users an experience that's relevant to them. Facebook applications can plug into the Facebook website in a number of ways: applications can be embedded on users' profile pages, reside on their own separate pages (called "canvas" pages), or live through desktop applications using data from the Facebook social graph.

What's new in Facebook Platform?

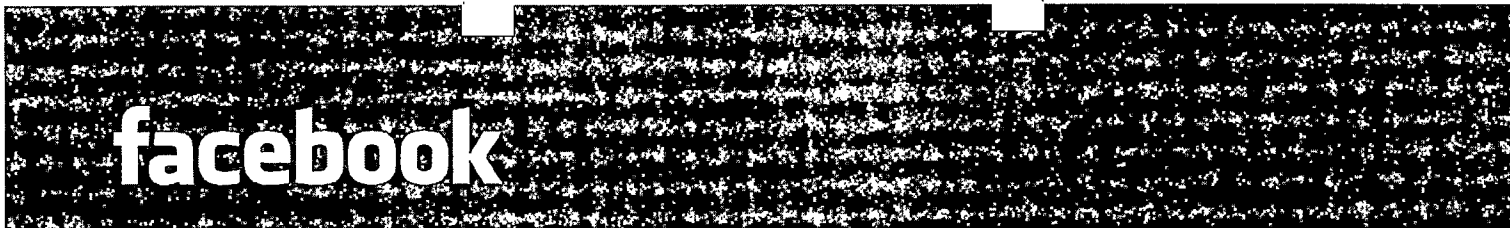
We've been adding functionality since Facebook Platform first shipped in beta in August 2006. With the latest evolution of Facebook Platform however, third-party developers can now create applications on the Facebook site with the same level of integration as applications built by internal Facebook developers. Now developers everywhere have the ability to create Facebook applications that deeply integrate into the Facebook site, as well as the potential for mass distribution through the social graph and new business opportunities.

Why did Facebook launch Facebook Platform?

Our engineers have created great applications for Facebook, but we recognized that third-party developers can help us make Facebook an even more powerful social utility. Facebook Platform gives developers everywhere the tools to create applications that we just wouldn't have the resources to build in-house, and those applications make Facebook an even better way for our users to exchange information. Developers also benefit from Facebook Platform as it gives them the potential to broadly distribute their applications and even build new business opportunities.

What kinds of applications can be built on Facebook Platform?

The kinds of applications developers can build on Facebook Platform are limited only by their imaginations. Because applications are based on the Facebook social graph they can be more relevant to users, keeping people in touch with what and whom they care about. We've already seen a variety of applications built by our developer partners, including those for sharing media files, book reviews, slideshows and more. Some of the



possibilities of Facebook applications are illustrated in the Facebook Platform Application Directory, available at <http://www.facebook.com/apps>.

Are there any restrictions on what developers can build?

Developers are encouraged to exercise their creativity when building applications. Of course, all applications are subject to the Terms of Service that every developer agrees to, which include basic requirements such as not storing any sensitive user information, not creating any offensive or illegal applications, and not building anything that phishes or spams users. And users will always have the power to report any applications that compromise Facebook's trusted environment, keeping our users' information safe.

What are the benefits of Facebook Platform for users?

With Facebook Platform, users gain the ability to define their experience on Facebook by choosing applications that are useful and relevant to them. Now that they have access to a virtually limitless set of applications from outside developers, users have an unprecedented amount of choice. They can share information and communicate with their trusted connections in ways that would never have been possible before Facebook opened its platform.

How do users add applications to and remove applications from their account?

If a user sees an application she likes on a friend's profile, she can add it to her account by clicking the "Add" link on the application's profile box. She can also add new applications by navigating to the application's specific page in the Facebook Platform Application Directory and clicking "Add Application" in the top-right corner. To remove an application, she first clicks "Applications" on the left navigation bar. From there, she can "Remove" any of the applications in her account, whether they are built by a developer partner or by Facebook.

What are the privacy controls for Facebook Platform, and what kind of user information can be shared?

On Facebook, users are always in control of their information and can choose how much of their information is made available to specific applications. With Facebook Platform, we're offering additional privacy controls and requiring that third parties treat user information with the same respect we do—and our users have come to expect. Users can also choose to completely opt out of making their data available through Facebook Platform. Applications can never violate users' basic privacy settings and are meant to provide users with a better opportunity to share their information with their friends and networks.

What do third-party applications do with user information?

Applications built by third parties are required to respect Facebook users' privacy preferences. Third-party applications allow users and their friends to share information in new ways, without affecting the security and privacy that they've always enjoyed on Facebook.

How many applications are there for Facebook Platform?

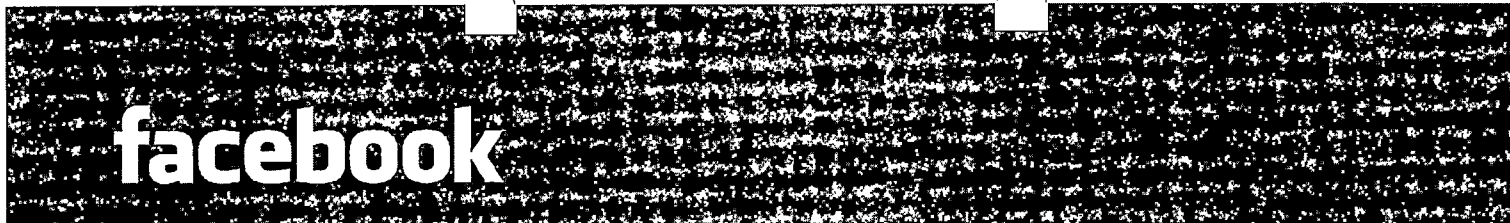
At f8, we are launching with over 85 applications from more than 65 developer partners, and that's only the beginning. We're encouraging interested developers everywhere to create Facebook applications. We have no limits on the number of applications that can be created.

What differentiates Facebook applications from widgets on other sites?

Facebook applications are deeply integrated into the site and take advantage of the network of real connections through which users share information and communicate—what we call the "social graph." Widgets are typically single-purpose Flash add-ons to a web page (i.e., displaying a single video) that are not fully integrated into a site nor are aware of the social context among users.

How will Facebook maintain its minimalist style if users can add and move applications around on their profile?

We're giving our users the choice to add applications and control their placement in their profiles, but we're not changing the essential layout and familiar style of the Facebook site. Facebook applications are focused on providing new ways to spread information on Facebook, not about redesigning the way a profile looks. For example, users will not be able to change the site background, add music that plays when their profiles load, or



insert animation into their profiles. Individual applications may play media, music or animations but only when a visitor to that profile interacts with them.

How will Facebook deal with applications that compete with one another or even compete with Facebook-built applications?

We welcome developers with competing applications, including developers whose applications might compete with Facebook-built applications. Many applications are likely to offer similar features. We've designed Facebook Platform so that applications from third-party developers are on a level playing field with applications built by Facebook. Ultimately, our users will decide which applications they find most useful, and it is these applications that will become the most popular.

How will Facebook monetize Facebook Platform?

All the great applications built by our developer partners provide a service to our users and strengthen the social graph. The result is even more engaged Facebook users creating more advertising opportunities.

Can Facebook applications include ads?

We want to enable developers to build a business on their Facebook applications, so we're giving developers the freedom to monetize their applications as they like. Developers can include advertising on their applications' canvas pages, though no advertising will be allowed within the application boxes that appear within user profiles.

Are you going to share revenue with developers?


While revenue sharing is not available at launch, we are looking into ways to share advertising revenue with developers. This version of Facebook Platform already lets developers monetize their applications as they like, whether they choose to offer it for free or build a business on their application.

What are the key technical elements of Facebook Platform?

Facebook Platform offers several technologies that help developers use data from the social graph. In addition to the Facebook API, this recently launched version of Facebook Platform introduces Facebook Markup Language (FBML), which enables developers to build applications that deeply integrate into the Facebook site. Facebook Platform also includes Facebook Query Language (FQL), which lets developers use a SQL-style interface to query the data they can access through the API.

For more details on the technology behind Facebook Platform, check out the Facebook Developer site at <http://developers.facebook.com>.

###

Attorney or Party without Attorney: ALAN H. PACKER, SBN 124724 NEWMAYER & DILLION LLP 1333 N. CALIFORNIA BLVD. SUITE 600 WALNUT CREEK, CA 94596 Telephone No: 925-988-3200 FAX No: 925-988-3290				For Court Use Only FILED SAN MATEO COUNTY FEB 26 2016 Clerk of the Superior Court  DEPUTY CLERK	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: Superior Court Of The State Of California - County Of San Mateo					
Plaintiff: BUTLER REALTY, LLC Defendant: CALIFORNIA CAPITAL INSURANCE COMPANY					
PROOF OF SERVICE SUMMONS		Hearing Date:	Time:	Dept/Div:	Case Number: CIV536982

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; CIVIL CASE COVER SHEET; COMPLAINT; ADR INFORMATION PACKET; NOTICE OF CASE MANAGEMENT CONFERENCE
3. a. Party served: CALIFORNIA CAPITAL INSURANCE COMPANY -
 b. Person served: DAVIS TINDALL, AGENT FOR SERVICE OF PROCESS
 MICHAEL JOHNSON, CONTROLLER. AUTHORIZED TO ACCEPT SERVICE OF PROCESS.
4. Address where the party was served: 2300 GARDEN ROAD
 MONTEREY, CA 93940
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Thu., Jan. 21, 2016 (2) at: 9:22AM
6. The "Notice to the Person Served" (on the Summons) was completed as follows:
 on behalf of: CALIFORNIA CAPITAL INSURANCE COMPANY
 Under CCP 416.10 (corporation)
7. Person Who Served Papers:
 - a. HECTOR GARCIA
 - d. The Fee for Service was: Recoverable Cost Per CCP 1033.5(a)(4)(B)
 - e. I am: (3) registered California process server
 - (i) Independent Contractor
 - (ii) Registration No.: 100
 - (iii) County: Monterey



1511 West Beverly Blvd.
 Los Angeles, CA 90026
 Telephone (213) 250-9111
 Fax (213) 250-1197
 www.firstlegalnetwork.com

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Fri, Jan. 22, 2016

**AMENDED
SUMMONS
(CITACION JUDICIAL)**

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SAN MATEO COUNTY

FEB 26 2016

Clerk of the Superior Court

CLERK

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

ELIZABETH M.B. KARNAZES, EDWARD L. NOVAK, LAURA J. WONS, and DOES 2 to 20, inclusive

YOU ARE BEING SUED BY PLAINTIFF:**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JOHN E. FERRY and KIRSTEN FERRY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): San Mateo Superior Court
400 County Center
Redwood City, CA 94063

CASE NUMBER:
(Número del Caso):

CIV535965

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

John E. Ferry and Kirsten Ferry / P.O. Box 55621, Hayward CA 94545 / (650) 421-3000

DATE:

(Fecha)

by
(Secretario)

RODINA M. CATALAN

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

